

MONTANA LEGISLATIVE HISTORY

Chapter 68 ~~19~~ 2003

Bill H 106 S _____

Original bill & history X c

H. Committee on TAXATION

Hearing Date(s) 1/10 X c

EXEC. ACTION 1/14 X c

_____ c

_____ c

Date Out _____ c

S. Committee on TAXATION

Hearing Date(s) 1/29 X c

EXEC. ACTION 1/31 X c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

If you have concerns regarding the format of the enclosed committee minutes or the recordings of the hearings, it is suggested that you contact your state legislators.

Bill Draft Number: LC0214**Bill Type - Number:** HB 106**Short Title:** Revise provisions relating to inheritance and estate taxes**Primary Sponsor:** Ron Erickson

Bill Actions - Current Bill Progress: Became Law**Bill Action Count:** 49

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	03/17/2003			
(H) Signed by Governor	03/14/2003			
(H) Transmitted to Governor	03/11/2003			
(S) Signed by President	03/11/2003			
(H) Signed by Speaker	03/11/2003			
(H) Returned from Enrolling	03/11/2003			
(C) Sent to Printing	03/10/2003			
(H) Sent to Enrolling	03/08/2003			
(H) 3rd Reading Passed as Amended by Senate	03/08/2003	90	0	
(H) Scheduled for 3rd Reading	03/08/2003			
(H) 2nd Reading Senate Amendments Concurred	03/07/2003	100	0	
(H) Scheduled for 2nd Reading	03/07/2003			
(S) Returned to House with Amendments	02/04/2003			
(S) 3rd Reading Concurred	02/04/2003	48	0	
(S) Scheduled for 3rd Reading	02/04/2003			
(S) 2nd Reading Concurred on Voice Vote	02/03/2003	49	0	
(S) Scheduled for 2nd Reading	02/03/2003			
(C) Sent to Printing	02/01/2003			
(S) Committee Report--Bill Concurred as Amended	02/01/2003			(S) Taxation
(S) Committee Executive Action--Bill Concurred as Amended	01/31/2003	10	0	(S) Taxation
(S) Hearing	01/29/2003			(S) Taxation
(S) Referred to Committee	01/22/2003			(S) Taxation
(S) First Reading	01/22/2003			
(H) Transmitted to Senate	01/20/2003			
(H) 3rd Reading Passed	01/20/2003	99	0	
(H) Scheduled for 3rd Reading	01/20/2003			
(H) 2nd Reading Passed	01/17/2003	100	0	
(H) Scheduled for 2nd Reading	01/17/2003			
(C) Sent to Printing	01/15/2003			
(H) Committee Report--Bill Passed as Amended	01/15/2003			(H)

			Taxation
(H) Committee Executive Action--Bill Passed as Amended	01/15/2003	16	0 (H) Taxation
(H) Hearing	01/10/2003		(H) Taxation
(H) First Reading	01/06/2003		
(H) Referred to Committee	12/20/2002		(H) Taxation
(C) Introduced Bill Text Available Electronically	12/17/2002		
(H) Introduced	12/17/2002		
(C) Pre-Introduction Letter Sent	12/11/2002		
(C) Pre-Introduction Letter Sent	12/10/2002		
(C) Draft in Assembly/Executive Director Review	12/09/2002		
(C) Draft in Final Drafter Review	12/09/2002		
(C) Bill Draft Text Available Electronically	12/09/2002		
(C) Draft in Input/Proofing	12/09/2002		
(C) Draft to Drafter - Edit Review [SAB]	12/06/2002		
(C) Draft in Edit	12/06/2002		
(C) Draft in Legal Review	12/06/2002		
(C) Draft to Requester for Review	11/24/2002		
(C) Draft to Requester for Review	11/05/2002		
(C) Fiscal Note Needed	06/18/2002		
(C) Draft Request Received	06/13/2002		

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Revenue and Transportation Interim Committee	
Drafter	Heiman	Lee
By Request Of	Department of Revenue	
Primary Sponsor	Erickson	Ron

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Taxation (Generally)	Simple		TX

Additional Bill Information

Probable Fiscal Note: No

Preintroduction Required: Y

Session Law Ch. Number: 68

DEADLINE

Category: Revenue Bills

Transmittal Date: 04/03/2003

Return (with 2nd house amendments) Date: 04/16/2003

Section Effective Dates

Section(s) Effective Date Date Qualified

All Sections 14-MAR-03

HOUSE BILL NO. 106
INTRODUCED BY R. ERICKSON
BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS DEALING WITH THE DEPARTMENT OF REVENUE'S RELATIONSHIP TO PROBATE ADMINISTRATION; AMENDING SECTIONS 72-3-607, 72-3-609, 72-3-1006, 72-4-303, 72-4-305, AND 72-16-906, MCA; REPEALING SECTION 72-16-920, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 72-3-607, MCA, is amended to read:

"72-3-607. Inventory -- appraisal -- copy to department of revenue. (1) ~~If the estate must file a United States estate tax return, within the time required for the filing of the United States estate tax return plus any extensions granted by the internal revenue service, a personal representative, who is not a special administrator or a successor to another representative who has previously discharged this duty, shall prepare and file or mail an inventory. The inventory must include a listing of all property that:~~

~~—— (a) the decedent owned, had an interest in or control over, individually, in common, or jointly, or otherwise had at the time of the decedent's death;~~

~~—— (b) the decedent had possessory or dispositive rights over at the time of death or had disposed of for less than its fair market value within 3 years of the decedent's death; or~~

~~—— (c) was affected by the decedent's death for the purpose of estate taxes. Within 9 months after appointment, a personal representative who is not a special administrator or a successor to another representative who has previously discharged this duty shall prepare an inventory of property owned by the decedent at the time of the decedent's death, listing the inventory of property with reasonable detail and indicating for each listed item its fair market value as of the date of the decedent's death and the type and amount of any encumbrance that may exist with reference to the item.~~

(2) The inventory must include a statement of the full and true value of the decedent's interest in every item listed in the inventory. ~~In this connection, the~~ The personal representative shall appoint one or more qualified and disinterested persons to assist the personal representative in ascertaining the fair market value as of the date of the decedent's death of all assets included in the estate. Different persons may be employed

to appraise different kinds of assets included in the estate. The names and addresses of any ~~appraiser~~ appraisers must be indicated on the inventory with the item or items appraised.

(3) The personal representative shall:

(a) send a copy of the inventory to interested persons; or

(b) file the original of the inventory with the court and send a copy of the inventory to interested persons

who request it, ~~or the personal representative may file the original of the inventory with the court. In any event, a copy of the inventory and statement of value must be mailed to the department of revenue."~~

Section 2. Section 72-3-609, MCA, is amended to read:

"72-3-609. ~~Supplementary Supplemental~~ inventory -- copy to department of revenue. If any property not included in the original inventory comes to the knowledge of a personal representative or if the personal representative learns that the value or description indicated in the original inventory for any item is erroneous or misleading, ~~he the personal representative~~ shall make a ~~supplementary supplemental~~ inventory or ~~appraisal~~ appraisal showing the market value as of the date of the decedent's death of the new item or the revised market value or descriptions and the appraisers or other data relied upon, if any; ~~and The personal representative shall file it the supplemental inventory with the court if the original inventory was filed or shall furnish copies thereof of the supplemental inventory or information thereof to persons interested in the new information and in any case shall mail a copy of it to the department of revenue."~~

Section 3. Section 72-3-1006, MCA, is amended to read:

"72-3-1006. ~~Certificate or receipt showing taxes paid required to close estate.~~ (1) In all probate proceedings under this code requiring the filing of a United States estate tax return, ~~before a~~ final distribution to successors ~~is may not be~~ made and ~~before any petition is~~ petitions may not be granted under 72-3-1001, 72-3-1002, 72-3-1003, or 72-3-1004, ~~unless there must have been~~ has been filed with the clerk:

(a) a certificate from the department of revenue stating that any estate tax due on the assets of the estate has been paid or that no tax is payable; or

(b) an agreement with the department of revenue for extension of time for payment of estate taxes; ~~or~~

~~—— (c) a receipt from the county treasurer stating that any estate tax due on the assets of the estate has been paid.~~

(2) This section does not prohibit a partial distribution that may become necessary in the course of administration."

Section 4. Section 72-4-303, MCA, is amended to read:

"72-4-303. Filing of letters, bond, inventory, and affidavit -- copy to department of revenue. (1)

The domiciliary foreign personal representative of the estate of a nonresident decedent, who wishes to receive payment and delivery as described in 72-4-306 or to exercise the powers over assets described in 72-4-310, shall file in duplicate with a district court in this state in a county in which property belonging to the decedent is located:

(a) ~~authenticated copies of his~~ the personal representative's appointment and of any official bond ~~he has given;~~

(b) ~~an inventory and appraisal of the property of the nonresident decedent located in this state, which inventory shall~~ must contain the information prescribed in 72-3-607; and

(c) an affidavit stating:

~~(a)(i)~~ (i) the date of death of the nonresident decedent; and

~~(b)(ii)~~ (ii) that no local administration or application or petition ~~therefor~~ for local administration is pending in this state; and

(iii) a statement as to whether the estate is or is not required to file a United States estate tax return.

(2) Upon receiving the information required by subsection (1), the clerk of court shall issue a certificate to the domiciliary foreign personal representative identifying ~~him~~ the representative as having registered with the district court and stating the name and date of death of the decedent.

(3) The clerk shall also immediately forward a copy of the appointment, affidavit, and inventory ~~and appraisal~~ required by subsection (1) to the department of revenue for estates that are required to file a United States estate tax return."

Section 5. Section 72-4-305, MCA, is amended to read:

"72-4-305. Right to inspect estate assets for inventory. ~~Any~~ A person holding ~~any~~ property of a nonresident decedent, including any instrument evidencing a debt, obligation, stock, or chose in action, shall permit the domiciliary foreign personal representative of the nonresident decedent to inspect ~~and appraise~~ the property for purposes of completing the inventory ~~and appraisal~~ called for in 72-4-303(1) upon being presented with proof of ~~his~~ the representative's appointment and an affidavit made by or on behalf of the representative stating:

(1) the date of death of the nonresident decedent;

(2) that no local administration or application or petition ~~therefor~~ for local administration is pending in

this state; and

(3) that the domiciliary foreign personal representative is entitled to make ~~such~~ the inspection and appraisal."

Section 6. Section 72-16-906, MCA, is amended to read:

"72-16-906. Required filings filing of United States estate tax return. The personal representative of the estate of any decedent whose estate is ~~subject to the payment of~~ required to file a United States estate tax return shall file a duplicate of the United States estate tax return with the department of revenue. ~~He shall also file with the department a certificate or other evidence from the internal revenue service showing the amount of the United States estate tax as computed by the internal revenue service."~~

NEW SECTION. **Section 7. Repealer.** Section 72-16-920, MCA, is repealed.

NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 9. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to dates of death after December 31, 2000.

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN DANIEL FUCHS**, on January 10, 2003 at 8 A.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Daniel Fuchs, Chairman (R)
Rep. Ronald Devlin, Vice Chairman (R)
Rep. Ron Erickson, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Joe Balyeat (R)
Rep. Gary Branae (D)
Rep. Eileen J. Carney (D)
Rep. Jill Cohenour (D)
Rep. Larry Cyr (D)
Rep. Gary Forrester (D)
Rep. Kim Gillan (D)
Rep. Verdell Jackson (R)
Rep. Bob Lake (R)
Rep. Carol Lambert (R)
Rep. Jesse Laslovich (D)
Rep. Jim Peterson (R)
Rep. John (Jack) W. Ross (R)
Rep. Karl Waitschies (R)

Members Excused: None.

Members Absent: None.

Staff Present: Kathleen Ely, Committee Secretary
Jeff Martin, Legislative Branch

Please Note: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. A videotaped recording of the meeting is available from the Montana Historical Society.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 106, 1/3/2003

Executive Action: None.

Sponsor: Rep. Erickson, HB 106, MISSOULA

Opening Statement by Sponsor:

8:01 a.m. Rep. Erickson

EXHIBIT(tah05a01)

Opponents: None.

Proponents' Testimony:

8:08 a.m. Charlena Toro, Attorney, Department of Revenue (DR)

Opponents' Testimony: None

Questions from Committee Members and Responses:

8:18 a.m. Rep. Forrester

8:19 a.m. Kurt Alme, Director, Department of Revenue

8:19 a.m. Rep. Forrester

8:19 a.m. Charlena Toro

8:20 a.m. Rep. Balyeat

8:21 a.m. Kurt Alme

8:22 a.m. Rep. Balyeat

8:23 a.m. Kurt Alme

8:23 a.m. Rep. Balyeat

8:24 a.m. Kurt Alme

8:24 a.m. Rep. Lambert

8:25 a.m. Kurt Alme

8:26 a.m. Rep. Lambert

8:26 a.m. Kurt Alme

8:28 a.m. Rep. Lambert

8:28 a.m. Kurt Alme

8:29 a.m. Rep. Ross

8:29 a.m. Kurt Alme

8:30 a.m. Jeff Martin

Closing by Sponsor:

8:32 a.m. Rep. Erickson

HEARING ON HB 207

Sponsor: REP. LASLOVICH, HD 57, ANACONDA

Opening Statement by Sponsor:

8:34 a.m. Rep. Laslovich

Opponents: None.

Proponents' Testimony:

8:37 a.m. Doreen Cooney, Department of Revenue

8:44 a.m. Harold Blattie, Associate Director of the Montana
Association of Counties

8:47 a.m. Mary Whittinghill, Montana Taxpayers Association

Opponents' Testimony: None.

Informational Testimony

8:49 a.m. Alec Hanson, Montana League of Cities and Towns

Questions from Committee Members and Responses:

8:53 a.m. Rep. Balyeat

8:53 a.m. Kurt Alme

8:53 a.m. Rep. Balyeat

8:53 a.m. Kurt Alme

8:54 a.m. Rep. Balyeat

8:54 a.m. Alec Hanson

8:57 a.m. Rep. Balyeat

Amendments to House Bill No. 106
1st Reading Copy

Requested by Representative Daniel Fuchs

For the House Taxation Committee

Prepared by Jeff Martin
January 10, 2003 (7:48am)

1. Title, page 1, line 8.
Strike: "A RETROACTIVE"
Following: "APPLICABILITY"
Strike: "DATE"
Insert: "DATES"
2. Page 3, line 5.
Strike: "--" through "revenue"
3. Page 3, line 12.
Following: "appraisal"
Insert: "and appraisal"
4. Page 3, line 15.
Following: "and"
Insert: "and"
5. Page 3, line 17.
Strike: "and"
6. Page 3, line 18.
Strike: "(iii)" through "return"
7. Page 3, line 22 through line 24.
Strike: subsection (3) in its entirety
8. Page 3, line 29.
Following: "appraise"
Insert: "and appraise"
9. Page 4, line 10.
Following: "representative"
Insert: "or domiciliary foreign personal representative"
10. Page 4, line 20.

HOUSE OF REPRESENTATIVES
Roll Call
TAXATION COMMITTEE

DATE 1-10-03

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN FUCHS, CHAIRMAN	✓		
REP. RON DEVLIN, VICE CHAIR MAJORITY	✓		
REP. RON ERICKSON, VICE CHAIR, MINORITY	✓		
REP. JOAN ANDERSEN	✓		
REP. JOE BALYEAT	✓		
REP. GARY BRANAE	✓		
REP. EILEEN CARNEY	✓		
REP. JILL COHENOUR	✓		
REP. LARRY CYR	✓		
REP. GARY FORRESTER	✓		
REP. KIM GILLAN	✓		
REP. VERDELL JACKSON			✓
REP. BOB LAKE	✓		
REP. CAROL LAMBERT	✓		
REP. JESSE LASLOVICH	✓		
REP. JIM PETERSON	✓		
REP. JACK ROSS	✓		
REP. KARL WAITSCHIES	✓		

Montana House of Representatives Visitors Register

TAXATION COMMITTEE

Date 1/10/03

Bill No. HB 106 Sponsor(s) R. Erickson

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN DANIEL FUCHS**, on January 14, 2003 at 8 A.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Daniel Fuchs, Chairman (R)
Rep. Ronald Devlin, Vice Chairman (R)
Rep. Ron Erickson, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Joe Balyeat (R)
Rep. Gary Branae (D)
Rep. Eileen J. Carney (D)
Rep. Jill Cohenour (D)
Rep. Larry Cyr (D)
Rep. Verdell Jackson (R)
Rep. Bob Lake (R)
Rep. Carol Lambert (R)
Rep. Jesse Laslovich (D)
Rep. Jim Peterson (R)
Rep. John (Jack) W. Ross (R)
Rep. Karl Waitschies (R)

Members Excused: Rep. Gary Forrester (D), Rep. Kim Gillan (D)

Members Absent: None.

Staff Present: Kathleen Ely, Committee Secretary
Jeff Martin, Legislative Branch

Please Note: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. A videotaped recording of the meeting is available from the Montana Historical Society.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 82, 1/14/2003
Executive Action: HB 106, DO PASS AS AMENDED, 18-0

8:21 a.m. Rep. Balyeat

8:22 a.m. Jeff Martin

8:22 a.m. Rep. Cohenour

8:22 a.m. Rep. Facey

8:24 a.m. Rep. Cohenour

8:24 a.m. Jeff Martin

8:25 a.m. Rep. Fuchs

8:25 a.m. Rep. Facey

Closing by Sponsor:

8:25 a.m. Rep. Facey

EXECUTIVE ACTION ON HB 106

EXHIBIT(tah07a01)

Motion/Vote: REP. ERICKSON moved that HB 106 BE AMENDED. Motion carried 16-0 by voice vote.

Motion/Vote: REP. ERICKSON moved that HB 106 DO PASS AS AMENDED. Motion carried 16-0 by voice vote.

Amendments to House Bill No. 106
1st Reading Copy

Requested by Representative Ron Erickson

For the House Taxation Committee

Prepared by Jeff Martin
January 14, 2003 (7:21am)

1. Page 3, line 5.

Strike: "--" through "revenue"

2. Page 3, line 15.

Following: "and"

Insert: "and"

3. Page 3, line 17.

Strike: "; and"

4. Page 3, line 18.

Strike: "(iii)" through "return"

5. Page 3, line 22 through line 24.

Strike: subsection (3) in its entirety

6. Page 3, line 29.

Following: "appraise"

Insert: "and appraise"

7. Page 4, line 10.

Following: "representative"

Insert: "or domiciliary foreign personal representative"

8. Page 4, line 21.

Strike: "dates of death"

Insert: "deaths occurring"

Following: "2000"

Insert: ", for which the probate of the decedents' estates close
after [the effective date of this act] "

- END -

HOUSE OF REPRESENTATIVES
Roll Call
TAXATION COMMITTEE

DATE 1-14-2003

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. DAN FUCHS, CHAIRMAN	✓		
REP. RON DEVLIN, VICE CHAIR MAJORITY	✓		
REP. RON ERICKSON, VICE CHAIR MINORITY	✓		
REP. JOAN ANDERSEN	✓		
REP. JOE BALLYEAT	✓		
REP. GARY BRANAE	✓		
REP. EILEEN CARNEY	✓		
REP. JILL COHENOUR	✓		
REP. LARRY CYR	✓		
REP. GARY FORRESTER			EX
REP. KIM GILLAN			EX
REP. VERDELL JACKSON	✓		
REP. BOB LAKE	✓		
REP. CAROL LAMBERT	✓		
REP. JESSE LASLOVICH	✓		
REP. JIM PETERSON	✓		
REP. JACK ROSS	✓		
REP. KARL WAITSCHIES	✓		



HOUSE STANDING COMMITTEE REPORT

January 14, 2003

Page 1 of 2

Mr. Speaker:

We, your committee on **Taxation** recommend that **House Bill 106** (first reading copy -- white) do pass as amended.

Signed:

Daniel Fuchs
Representative Daniel Fuchs, Chair

And, that such amendments read:

1. Page 3, line 5.
Strike: "--" through "**revenue**"
2. Page 3, line 15.
Following: "and"
Insert: "and"
3. Page 3, line 17.
Strike: "and"
4. Page 3, line 18.
Strike: "(iii)" through "return"
5. Page 3, line 22 through line 24.
Strike: subsection (3) in its entirety
6. Page 3, line 29.
Following: "appraise"
Insert: "and appraise"
7. Page 4, line 10.
Following: "representative"

Committee Vote:

Yes 16, No 0.

070944SC.hhn

1-15-03
9:20 *JD*

Insert: "or domiciliary foreign personal representative"

8. Page 4, line 21.

Strike: "dates of death"

Insert: "deaths occurring"

Following: "2000"

Insert: ", for which the probate of the decedents' estates close
after [the effective date of this act] "

- END -

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB DEPRATU**, on January 29, 2003 at 9:02 A.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Bob DePratu, Chairman (R)
Sen. Bob Story Jr., Vice Chairman (R)
Sen. Jerry W. Black (R)
Sen. John C. Bohlinger (R)
Sen. Jon Ellingson (D)
Sen. Jim Elliott (D)
Sen. Bill Glaser (R)
Sen. Dan Harrington (D)
Sen. Walter McNutt (R)
Sen. Mike Taylor (R)
Sen. Ken Toole (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lee Heiman, Legislative Branch
Shirley Herrin, Committee Secretary

Please Note:

Video-taped Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. A video-taped recording of the meeting is available from the Montana Historical Society.

Committee Business Summary:

Hearing & Date Posted: HB 58, 1/23/2003; HB 59, 1/22/2003;
HB 106, 1/23/2003
Executive Action: HB 58, HB 188

HEARING ON HB 106

Sponsor: REP. RON ERICKSON, HD 64, Missoula

Opening Statement by Sponsor:

9:03 REP. ERICKSON opened on HB 106 - "Revise provisions relating to inheritance and estate taxes".

Proponents' Testimony:

9:06 Charlena Toro, Department of Revenue

Opponents' Testimony: None

Questions from Committee Members and Responses:

9:13 SENATOR ELLIOTT questioned Charlena Toro

9:15 SENATOR ELLINGSON questioned Charlena Toro, who referred the question to Kurt Alme, Director, Dept of Revenue.

Closing by Sponsor:

9:18 REP. RON ERICKSON closed on HB 106

HEARING ON HB 58

Sponsor: REP. RON ERICKSON, HD 64, Missoula

Opening Statement by Sponsor:

9:20 REP. RON ERICKSON opened on HB 58 - "Standardize relationship of when tax return due and payment of tax due.

Proponents' Testimony:

9:21 Don Hoffman, Department of Revenue

9:22 Jane Egan, Executive Director, MT Society of CPA's

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

9:23 REP. RON ERICKSON closed on HB 58.

EXECUTIVE ACTION ON HB 58

Motion/Vote: SEN. HARRINGTON moved that HB 58 BE CONCURRED IN.
Motion carried unanimously.

**SENATE
TAXATION COMMITTEE
ROLL CALL**

DATE JAN 29, 2003

MEMBER	ASSIGNMENT	PRESENT	EXCUSED	ABSENT
Sen. Bob DePratu	Chairman	✓		
Sen. Jerry Black	Member	✓		
Sen. John Bohlinger	Member	✓		
Sen. Jon Ellingson	Member	✓		
Sen. Jim Elliott	Member	✓		
Sen. Bill Glaser	Member	✓		
Sen. Dan Harrington	Member	✓		
Sen. Walt McNutt	Member	✓		
Sen. Mike Taylor	Member	✓		
Sen. Ken Toole	Member	✓		
Sen. Bob Story	Vice Chair	✓		

DATE JANUARY 29, 2003

SENATE COMMITTEE ON TAXATION

BILLS BEING HEARD TODAY: HB 58 ~ HB 59
HB 106

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
CHARLENA TORO	444-1982	DEPARTMENT OF REVENUE	106	✓	
Don Hoffman	444-3587	✓	58:59	✓	
Kurt Alwe	x2482	DOR	HB 106	✓	
Jon Matropals	442-8560	MT Soc CPAs	HB 58	✓	
Lane Egan	442-7301	MT Society of CPAs	HB 58	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB DEPRATU**, on January 31, 2003 at 9:03 A.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Bob DePratu, Chairman (R)
Sen. Bob Story Jr., Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Jon Ellingson (D)
Sen. Jim Elliott (D)
Sen. Bill Glaser (R)
Sen. Dan Harrington (D)
Sen. Walter McNutt (R)
Sen. Mike Taylor (R)
Sen. Ken Toole (D)

Members Excused: Sen. Jerry W. Black (R)

Members Absent: None.

Staff Present: Lee Heiman, Legislative Branch
Shirley Herrin, Committee Secretary

Please Note:

Video-Taped Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. A video-taped recording of the meeting is available from the Montana Historical Society.

Committee Business Summary:

Hearing & Date Posted: None
Executive Action: HB 59; HB 106; SB 65; SB 121

EXECUTIVE ACTION ON HB 59

Motion: SEN. MCNUTT moved that HB 59 BE CONCURRED IN.

9:05 David Hoffman, Dept. of Revenue, gave information.
 9:06 **Motion/Vote:** SEN. ELLIOTT moved that HB 59 BE AMENDED to make the effective date upon passage and approval HB005901.alh EXHIBIT(tas21a01) Motion carried unanimously. **Motion/Vote:** SEN. ELLIOTT moved that HB 59 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 106

Motion:

9:08 SEN. ELLINGSON moved that HB 106 BE CONCURRED IN and moved the amendment HB 010601.alh. EXHIBIT(tas21a02)

Discussion:

9:09 SEN. ELLINGSON explained the amendment.
Vote: Motion carried 10-0.
 9:10 **Motion:** SEN. ELLINGSON moved that HB 106 BE CONCURRED IN AS AMENDED.

Discussion:

9:12 SEN. STORY questioned SEN. ELLINGSON
Vote: Motion carried 10-0.

EXECUTIVE ACTION ON SB 65

9:16 **Motion:** SEN. TOOLE moved that SB 65 DO PASS.
 9:17 **Motion:** SEN. STORY moved that SB 65 BE AMENDED SB006504.alh. **Vote:** Motion carried 10-0. **Motion:** SEN. STORY moved that SB 65 BE AMENDED SB 006505.ash.

Discussion:

9:18 Lee Heiman explained the amendment. **Motion:** SEN. STORY moved that SB 65 DO PASS AS AMENDED.

Discussion:

9:20 SEN. STORY stated he had the Department draft amendment SB006501.alh EXHIBIT(tas21a03)

11 min Time lapsed 9:22 SEN. TOOLE questioned SEN. STORY

9:34 **Motion:** SEN. STORY moved that SB 65 DO PASS AS AMENDED.

9:35 **Substitute Motion:** SEN. ELLINGSON moved a substitute conceptual motion to amend SB 65.

SENATE TAXATION

DATE Jan 31, 2003

EXHIBIT NO. 2

BILL NO. HB 106

Amendments to House Bill No. 106
3rd Reading Copy

For the Senate Taxation Committee

Prepared by Lee Heiman
January 30, 2003 (12:35pm)

1. Page 1, line 29.

Strike: "shall"

Insert: "may"

- END -

**SENATE
TAXATION COMMITTEE
ROLL CALL**

DATE JANUARY 31, 2003

MEMBER	ASSIGNMENT	PRESENT	EXCUSED	ABSENT
Sen. Bob DePratu	Chairman	✓		
Sen. Jerry Black	Member		✓	
Sen. John Bohlinger	Member	✓		
Sen. Jon Ellingson	Member	✓		
Sen. Jim Elliott	Member	✓		
Sen. Bill Glaser	Member	✓		
Sen. Dan Harrington	Member	✓		
Sen. Walt McNutt	Member	✓		
Sen. Mike Taylor	Member	✓		
Sen. Ken Toole	Member	✓		
Sen. Bob Story	Vice Chair	✓		



SENATE STANDING COMMITTEE REPORT

January 31, 2003

Page 1 of 1

Mr. President:

We, your committee on **Taxation** recommend that **House Bill 106** (third reading copy -- blue) be concurred in as amended.

Signed:

A handwritten signature in cursive script, appearing to read "Bob DePratu".

Senator Bob DePratu, Chair

To be carried by Senator Jon Ellingson

And, that such amendments read:

1. Page 1, line 29.

Strike: "shall"

Insert: "may"

- END -

Committee Vote:

Yes 10, No 0.

211255SC.ssc

Handwritten initials, possibly "BR", in the bottom right corner.



AN ACT GENERALLY REVISING LAWS DEALING WITH THE DEPARTMENT OF REVENUE'S RELATIONSHIP TO PROBATE ADMINISTRATION; AMENDING SECTIONS 72-3-607, 72-3-609, 72-3-1006, 72-4-303, 72-4-305, AND 72-16-906, MCA; REPEALING SECTION 72-16-920, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 72-3-607, MCA, is amended to read:

"72-3-607. Inventory -- appraisal -- copy to department of revenue. (1) ~~If the estate must file a United States estate tax return, within the time required for the filing of the United States estate tax return plus any extensions granted by the internal revenue service, a personal representative, who is not a special administrator or a successor to another representative who has previously discharged this duty, shall prepare and file or mail an inventory. The inventory must include a listing of all property that:~~

~~—— (a) the decedent owned, had an interest in or control over, individually, in common, or jointly, or otherwise had at the time of the decedent's death;~~

~~—— (b) the decedent had possessory or dispositive rights over at the time of death or had disposed of for less than its fair market value within 3 years of the decedent's death; or~~

~~—— (c) was affected by the decedent's death for the purpose of estate taxes. Within 9 months after appointment, a personal representative who is not a special administrator or a successor to another representative who has previously discharged this duty shall prepare an inventory of property owned by the decedent at the time of the decedent's death, listing the inventory of property with reasonable detail and indicating for each listed item its fair market value as of the date of the decedent's death and the type and amount of any encumbrance that may exist with reference to the item.~~

(2) The inventory must include a statement of the full and true value of the decedent's interest in every item listed in the inventory. ~~In this connection, the~~ The personal representative ~~shall~~ may appoint one or more qualified and disinterested persons to assist the personal representative in ascertaining the fair market value

as of the date of the decedent's death of all assets included in the estate. Different persons may be employed to appraise different kinds of assets included in the estate. The names and addresses of any ~~appraiser~~ appraisers must be indicated on the inventory with the item or items appraised.

(3) The personal representative shall:

(a) send a copy of the inventory to interested persons; or

(b) file the original of the inventory with the court and send a copy of the inventory to interested persons

who request it, ~~or the personal representative may file the original of the inventory with the court. In any event, a copy of the inventory and statement of value must be mailed to the department of revenue.~~"

Section 2. Section 72-3-609, MCA, is amended to read:

"72-3-609. Supplementary Supplemental Inventory ~~---copy to department of revenue.~~ If any property not included in the original inventory comes to the knowledge of a personal representative or if the personal representative learns that the value or description indicated in the original inventory for any item is erroneous or misleading, ~~he~~ the personal representative shall make a supplementary supplemental inventory or ~~appraisal~~ appraisal showing the market value as of the date of the decedent's death of the new item or the revised market value or descriptions and the appraisers or other data relied upon, if any; ~~and~~ The personal representative shall file it the supplemental inventory with the court if the original inventory was filed or shall furnish copies ~~thereof~~ of the supplemental inventory or information ~~thereof~~ to persons interested in the new information ~~and in any case shall mail a copy of it to the department of revenue.~~"

Section 3. Section 72-3-1006, MCA, is amended to read:

"72-3-1006. ~~Certificate or receipt showing taxes paid required to close estate.~~ (1) In all probate proceedings under this code requiring the filing of a United States estate tax return, ~~before a~~ final distribution to successors ~~is may not be made and before any petition is~~ petitions may not be granted under 72-3-1001, 72-3-1002, 72-3-1003, or 72-3-1004, ~~unless there must have been~~ has been filed with the clerk:

(a) a certificate from the department of revenue stating that any estate tax due on the assets of the estate has been paid or that no tax is payable; or

(b) an agreement with the department of revenue for extension of time for payment of estate taxes; ~~or~~

~~(c) a receipt from the county treasurer stating that any estate tax due on the assets of the estate has~~

been paid.

(2) This section does not prohibit a partial distribution that may become necessary in the course of administration."

Section 4. Section 72-4-303, MCA, is amended to read:

"72-4-303. Filing of letters, bond, inventory, and affidavit ~~—copy to department of revenue.~~ (1)

The domiciliary foreign personal representative of the estate of a nonresident decedent, who wishes to receive payment and delivery as described in 72-4-306 or to exercise the powers over assets described in 72-4-310, shall file in duplicate with a district court in this state in a county in which property belonging to the decedent is located:

(a) authenticated copies of ~~his~~ the personal representative's appointment and of any official bond ~~he has given;~~

(b) an inventory ~~and appraisal~~ of the property of the nonresident decedent located in this state, which ~~inventory shall~~ must contain the information prescribed in 72-3-607; and

(c) an affidavit stating:

~~(a)~~ (i) the date of death of the nonresident decedent; ~~and and~~

~~(b)~~ (ii) that no local administration or application or petition ~~therefor~~ for local administration is pending in this state.

(2) Upon receiving the information required by subsection (1), the clerk of court shall issue a certificate to the domiciliary foreign personal representative identifying ~~him~~ the representative as having registered with the district court and stating the name and date of death of the decedent.

~~— (3) The clerk shall also immediately forward a copy of the appointment, affidavit, and inventory and appraisal required by subsection (1) to the department of revenue."~~

Section 5. Section 72-4-305, MCA, is amended to read:

"72-4-305. Right to inspect estate assets for inventory. ~~Any~~ A person holding ~~any~~ property of a nonresident decedent, including any instrument evidencing a debt, obligation, stock, or chose in action, shall permit the domiciliary foreign personal representative of the nonresident decedent to inspect ~~and appraise and~~ and appraise the property for purposes of completing the inventory ~~and appraisal~~ called for in 72-4-303(1) upon being

presented with proof of his the representative's appointment and an affidavit made by or on behalf of the representative stating:

- (1) the date of death of the nonresident decedent;
- (2) that no local administration or application or petition ~~therefor~~ for local administration is pending in this state; and
- (3) that the domiciliary foreign personal representative is entitled to make ~~such~~ the inspection and appraisal."

Section 6. Section 72-16-906, MCA, is amended to read:

"72-16-906. Required filings filing of United States estate tax return. The personal representative or domiciliary foreign personal representative of the estate of any decedent whose estate is ~~subject to the payment of~~ required to file a United States estate tax return shall file a duplicate of the United States estate tax return with the department of revenue. ~~He shall also file with the department a certificate or other evidence from the internal revenue service showing the amount of the United States estate tax as computed by the internal revenue service."~~

Section 7. Repealer. Section 72-16-920, MCA, is repealed.

Section 8. Effective date. [This act] is effective on passage and approval.

Section 9. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to deaths occurring after December 31, 2000, for which the probate of the decedents' estates closes after [the effective date of this act].

- END -